

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of decision: 20.01.2020

1. CRM-M-26268-2019 (O&M)

Arun Kumar @ Sunny

... Petitioner

Vs.

State of Punjab

... Respondent

2. CRM-M-19275-2019 (O&M)

Kuldeep Singh @ Bhatti

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Ritesh Pandey, Advocate
for the petitioner (in CRM-M-26268-2019).

Mr. S.S. Gill, Advocate
for the petitioner (in CRM-M-19275-2019).

Mr. Ajay Pal Singh Gill, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in both these petitions is for grant of regular bail in FIR
No.254 dated 05.12.2018 under Section 21 of NDPS Act, registered at Police
Station Division No.A, Amritsar, District Police Commissionerate Amritsar.

Learned counsel for petitioner Arun Kumar @ Sunny submits that

this is first petition for grant of regular bail to the petitioner. It is further submitted that as per allegations in the FIR, on suspicion, petitioner Arun Kumar @ Sunny was apprehended by the police party and on search, 260 grams of heroine was recovered from him. Learned counsel has relied upon statement of ASI Sukhjinder Singh, who was part of the police party and appeared as PW1, wherein he has stated that petitioner Arun Kumar @ Sunny was arrested and his personal search was conducted, however, in cross-examination, this witness has stated that no consent memo or non-consent memo of the petitioner was prepared and no Gazetted Officer was called at the spot. Learned counsel further submits that thus, it is to be decided during the course of trial whether the provisions of Section 50 of NDPS Act were complied with or not, as personal search of the petitioner was conducted. It is also submitted that the petitioner is in custody since 05.12.2018; he is not involved in any other case; out of total 19 prosecution witnesses, only 01 PW has been examined and it will take long time in conclusion of the trial.

Learned counsel for petitioner Kuldeep Singh @ Bhatti has submitted that this is second petition for grant of regular bail to the petitioner; earlier was dismissed as withdrawn on 25.03.2019 and since the petitioner is in custody for the last more than 01 year, he has filed this second petition, as only 01 PW has been examined. It is further submitted that the petitioner was not arrested at the spot and his name surfaced on the basis of disclosure statement of Arun Kumar @ Sunny and in pursuance thereof, he was arrested on 07.12.2018.

Learned State counsel, on instructions from ASI Harjinder Singh, has not disputed the contents of statement of PW1 ASI Sukhjinder Singh

recorded by the trial Court, however, has submitted that petitioner Kuldeep Singh @ Bhatti is involved in two more FIRs.

Without commenting anything on merits of the case, considering the stage of trial that only 01 PW has been examined and also in view of the statement of PW1 ASI Sukhjinder Singh, both these petitions are allowed and petitioners Arun Kumar @ Sunny @ Kuldeep Singh @ Bhatti are directed to be released on regular bail subject to furnishing their bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate, concerned.

Petitions stand disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

20.01.2020

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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No